

Appl. No. 10/630,592  
Amd. Dated May 18, 2005  
Reply to Office Action of March 17, 2005

### **REMARKS/ARGUMENTS**

Reconsideration of the rejections set forth in the Office Action dated March 17, 2005 is respectfully requested.

Claims 1-33 are currently pending and have been rejected.

#### **Rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103**

Claims 1-6, 9, 11-16, 19-24, and 27-31 has been rejected under 35 U.S.C. § 102(e) as being anticipated by Kato (U.S. Publication No. 2001/0'84385). Claims 1, 7, 10, 11, 17-19, 25, and 26 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Brissette et al. (U.S. Publication No. 2004/0184489), herein after "Brissette" in view of Kato. Claims 8, 32, and 33 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Brissette and Kato as applied to claims 1, 7, 10, 17, 18, 25, and 26 and further in view of Carson et al. (U.S. Publication No. 2004/0066750), herein after "Carson."

#### *I. Claim 1 and its dependents*

Claim 1 recites a method for processing a packet which includes a preamble arrangement including at least one preamble associated with a frame. The packet is received at a second network element from a first network element. The method includes determining whether at least one error has arisen between a source and the second network element, and inserting a first error count indication in the preamble arrangement that substantially accounts for the error.

The Examiner has argued that Kato alone, and also in combination with Brissette, teaches the limitations of claim 1. It is respectfully submitted that while Kato discloses that error detection data may be incorporated into a preamble (Kato, paragraphs 235, 236, and 239), Kato does not teach or reasonably suggest that an error count indication which accounts for an error

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that arose between a source and a second network element is inserted in a preamble. Kato describes error detection data in paragraph 235 as follows:

“....error detection data 2308, such as, for example, a **parity check code, a checksum, or a cyclic redundancy check (“CRC”)**, that enables a portable computing device 107 to detect errors.” [emphasis added]

The error detection data of Kato is not an indication which accounts for an error. Rather, the error detection data of Kato is a code, checksum, or check that enables errors to be detected. A parity check code, a checksum, and a cyclic redundancy check are each checks which enable error detection to occur, but are not an error count indication or an indication of any error determined to have arisen. Something that enables errors to be detected is not the same as, and does not reasonably suggest, an error count indication which identifies or accounts for an error. Therefore, claim 1 is believed to be allowable over Kato for at least this reason.

In paragraph 131 of Kato, Kato mentions an operation of performing error checking analysis. However, there is no teaching or suggestion that any results of an error checking analysis are stored in a preamble. Further, though the error checking analysis mentioned by Kato is disclosed as possibly being a checksum validation, it is noted that the results of a checksum validation are not stored in a preamble. Data (a checksum) that is used to enable a portable computing device to perform a checksum validation is not the same as an indication which accounts for an error.

Kato describes, in paragraph 126, that a distributor may benefit from error checking and correction techniques. However, the fact that a distributor may benefit from error checking and correction techniques does nothing to suggest that results of error checking, or indications which account for an error, are stored in a preamble.

While Brissette appears to teach of detecting errors in a path, the Examiner has acknowledged on page 10 of the Office Action dated March 17, 2005 that Brissette does not teach of inserting a first error count indication in a preamble arrangement. However, the

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Examiner has argued that Kato overcomes this deficiency of Brissette. The Applicant respectfully disagrees, and submits that as discussed above, Kato only teaches of a preamble being arranged to include error detection data that is used to enable errors to be detected. A combination of Brissette and Kato, at best, would teach of data that enables an error in a path to be detected to be stored in a preamble, e.g., data that enables the system of Brissette to detect an error would be stored in the preamble. There is no suggestion that information pertaining to actual errors detected in a path are stored in a preamble, since Kato does not teach of storing indications for detected errors in a preamble and Brissette does not teach of storing anything in a preamble. Kato only teaches of storing a parity check code, a checksum, and a cyclic redundancy check -- none of which are indications of an error or an error count indication -- in a preamble. As such, it is respectfully submitted that a combination of Brissette and Kato also does not teach the limitations of claim 1.

Claims 2-10 each depend either directly or indirectly from claim 1 and, therefore, are each believed to be allowable over the cited art for at least the reasons set forth with respect to claim 1. Each of these dependent claims recites additional limitations which, when considered in light of claim 1, are believed to further distinguish the claimed invention over the art of record. By way of example, claim 2 requires monitoring a bit-interleaved parity and storing the bit-interleaved parity for a previous packet in a preamble arrangement. The Applicant is unable to determine where in paragraphs 235-239 of Kato the Examiner believes Kato teaches of monitoring and storing a bit-interleaved parity for a previous packet. In fact, the Applicant has been unable to locate any such teaching in Kato. Therefore, the Applicant submits that claim 2 is allowable over Kato.

The Examiner has also rejected claim 4 under 35 U.S.C. § 102(e) as being anticipated by Kato, as indicated on page 2 of the Office Action dated March 17, 2005. Claim 4 requires storing a second error count indication in a preamble arrangement, and inserting at least one of a tandem connection remote error indication and a tandem connection remote defect indication in the preamble arrangement. The Applicant is not able to determine why the Examiner believes Kato teaches of such limitations, since the Examiner does not appear to have addressed these limitations. The Examiner mentions, on page 3 of the Office Action dated March 17, 2005, "that

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the teaching for using a distributor to transmit received signals to another stage of receivers is a tandem connection.” The Applicant does not agree with the Examiner’s statement. However, for the sake of argument, even if the distributor and the receiver somehow form a tandem connection, there is no teaching in Kato of a tandem connection remote error indication or a tandem connection remote defect indication. As discussed above, Kato does not teach storing an error count indication in a preamble arrangement. It is respectfully submitted that Kato does not teach of storing at least one of a tandem connection remote error indication and a tandem connection remote defect indication in a preamble arrangement. Hence, claim 4 is believed to be allowable over Kato for at least these reasons as well.

Claim 5 has been rejected under 35 U.S.C. § 102(e) as being anticipated by Kato, as indicated on page 2 of the Office Action dated March 17, 2005. The Examiner does not appear to have addressed the limitations of claim 5 which he believes to be anticipated by Kato. The Applicant submits that Kato does not teach of identifying a number of errors between a source of a tandem connection and a second network element. Kato also does not appear to teach of extracting at least one of a tandem connection remote error indication and a tandem connection remote defect indication from the preamble arrangement, as required by claim 5. Therefore, it is respectfully submitted that claim 5 is allowable over Kato.

The Applicant would appreciate it if the Examiner would clarify his rejections of claims 2-5 (particularly claims 3-5 which do not appear to have been addressed in the Office Action dated March 17, 2005). A clarification would be greatly appreciated, and would allow the Applicant to provide a full response to the Examiner’s rejections.

*2. Claim 11 and its dependents*

Claim 11 recites similar limitations as recited in claim 1. Therefore, claim 11 and its dependents are each believed to be allowable over the cited art for at least the reasons set forth above with respect to claim 1.

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The Applicant would appreciate it if the Examiner would clarify his rejections of claims 12-15, 17, and 18. The Examiner does not appear to have addressed the limitations in these claims. It is noted that although the Examiner has indicated on page 5 of the Office Action dated March 17, 2005, that features of claims 17 and 18 have been addressed in his rejections of claim 1 and 7, the Applicant is unable to determine where the Examiner has addressed features of these claims, as for example a trail trace identifier and bits associated with a performance monitoring information, as required in claim 17. A clarification of the Examiner's rejections of claims 12-18 would allow the Applicant to more fully respond to the Examiner's rejections.

3. *Claim 19 and its dependents*

Claim 19 recites similar limitations as recited in claim 1. Therefore, claim 19 and its dependents are each believed to be allowable over the cited art for at least the reasons set forth above with respect to claim 1.

The Applicant would appreciate it if the Examiner would clarify his rejections of claims 20-23, 25, and 26. A clarification of these rejections would allow the Applicant to provide a full response to these dependent claims.

4. *Claim 27 and its dependents*

The Examiner has rejected claim 27 as being anticipated by Kato. On page 4 of the Office Action dated March 17, 2005, the Examiner has indicated that the features of claim 27 are found in claims 1-6. As noted above, it does not appear to the Applicant that the Examiner has detailed any rejections of at least claims 3-5. Claim 27 is believed to be allowable for at least the reasons set forth above with respect to claim 1.

Claim 27 recites a network element which includes a receiver and a processor. The receiver is arranged to receive an Ethernet packet having a preamble arrangement that contains a bit interleaved parity code, at least one of a remote error indication and a remote defect indication, a trail trace identifier, an error count, and performance monitoring information. It

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does not appear to the Applicant that Kato teaches of storing any of a bit interleaved parity code, a remote error indication, a remote defect indication, a trail trace identifier, an error count, and performance monitoring information. Kato does not even appear to mention a bit interleaved parity code, a remote error indication, a remote defect indication, a trail trace identifier, an error count, and performance monitoring information. Thus, claim 27 and its dependents are believed to be allowable for at least this reason.

As discussed above with respect to Fig. 1, Kato does not teach of storing an error count in a preamble arrangement, and in teaching of storing error detection data, Kato teaches of storing data which enables error detection to occur. Data which enables error detection to occur is not the same as the results of an error detection operation. It is respectfully submitted that a bit interleaved parity code, a remote error indication, a remote defect indication, a trail trace identifier, and error count, and performance monitoring information may each be considered to be results of an error detection operation. Hence, claim 27 and its dependents are each believed to be allowable for these additional reasons as well.

#### Conclusion

For at least the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 399-5608.

Respectfully submitted,



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